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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/776,409	02/02/2001	Ludwig Hellenthal	HM-396	4073

7590 05/21/2003

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NEW YORK, NY 10017

EXAMINER

FORD, JOHN K

ART UNIT	PAPER NUMBER
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3743

DATE MAILED: 05/21/2003

9

Please find below and/or attached an Office communication concerning this application or proceeding.

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# Office Action Summary

Application No.

09/776,409

Applicant(s)

Hellenthal et al.

Examiner

FORD

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 2-5-03
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 8
- 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other:

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Applicant's response of February 5, 2003 has been studied carefully. Claims 1 and 2 have been amended significantly to, in pertinent part, claim that the inlet and outlet (supply and return) connections are through one roller neck. Claim 1 continues to claim, as a minimum, one shut-off device.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

Claims 1-5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

New claim 1 is unclear as to whether the at least one shut – off device is actually located in the roller neck or whether the claim is simply repeating that the forward flow means and the rearward flow means are located in the roller neck. As well, applicant is inconsistent in his use of "return flow means " (claim 1, lines 5-6) and "rearward flow means " (claim 1, lines 8-9). Was this intentional, if so, what is the significance of the two different recitations? Applicant addressed no comments to what claims 1 and 2, as amended, are supposed to be claiming in his remarks in his February 5, 2003 amendment.

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being clearly by anticipated.

(DE 40 11 826)

Giving claim 1 its broadest reasonable interpretation, it appears that check valve 16 or 16' in Figures 4 or 5, respectively, answer to the "shut-off" device limitations of claim 1. Figure 1 of DE'826 shows inlet 38 and outlet 46 conduits going through a roller neck 5.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over the conceded prior art discussed on pages 2-4 of the specification in view of Bartholomew.

The discussion of the prior art on pages 2-4 of the specification shows that rollers in which the hoses rupture contribute oil to an ensuing fire that is difficult to extinguish.

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Apparently it is known to use sprinklers to reduce the fire hazard. Nevertheless, oil in the roller continues to leak out for some time feeding the fire.

Bartholomew teaches, in an art analogous to the one applicants are working in, the use of multiple check valves (see Figure 3) in both the inlet and outlet conduits of an oil filled device (a tank) to prevent leakage from the tank when one or more of these conduits is ruptured. (col. 5, lines 11-13). Clearly such leaking fuel oil presents a significant fire hazard analogous to that identified by applicants.

One of ordinary skill aware of the dangers of leaking flammables would have looked into arts reasonably related to the problem seeking a solution. Namely one of ordinary skill would have had ample motivation to have looked at fuel tank systems and means to suppress leakage from them.

To prevent significant leakages such check valves as disclosed by Bartholomew would necessarily be installed in the roller as close to the potential rupture point (i.e. the joint between the roller and the fluid connector) as possible.

Claim 1 –5 are rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art as applied to claim 1 - 5 above, and further in view of Spatafora or Carroll

Spatafora teaches locating cut –off valves in the journal area of the roller. See Figure 8 showing valve seal 66 cutting off flow in area 49 (see Fig. 2, left side) and in

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Figure 9 valve seal 67 cutting off flow in area 48 (see Fig. 2, right side). Carroll teaches a check valve 37 in the roller neck to prevent backflow in the event of fitting 33 rupturing. To have located the check valves taught by Bartholomew in the journal area of the conceded prior art roller would have been obvious to one of ordinary skill in view of such a teaching by Spatafora or Carroll.

Applicant's comments about Bartholomew are unconvincing because applicants merely state a bald conclusion that it would be unobvious to use the check valve system of Bartholomew in a thermal roller system.

Applicants broadly state the purpose of Bartholomew to be a "fuel filling system for automobiles" when it is, in fact, "yet another object of the invention is to provide a fuel filling pipe system which employs check valves [like applicants] at the gas tank [analogous to a roller filled with oil] to prevent leakage from the tank if the filling system [analogous to applicants' supply and discharge lines disclosed on page 8, lines 15-17 of their specification] are ruptured, as during a collision" (Bartholomew, col. 2, lines 1 – 4 and col. 5 lines 11-13). Applicants have not suggested *any reasons* why one of ordinary skill would not look at safety devices to prevent the leakage of oil from reservoirs in the event of a supply or return hose rupture in looking for a safety device to prevent a roller reservoir filled with oil leaking in the event of a rupture in a supply or return hose feeding oil to that reservoir.

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Regarding Spotafora, it merely was relied upon to teach a location for a cut-off valve in the journal area of a roller (i.e. what applicant refers to as a "roller neck") and nothing more. The rejection never proposed using the manually activated valve 55 of Spotafora in the combination of the conceded prior art / Bartholomew. It merely taught that locating the cut -off valves of Bartholomew in the roller neck of the conceded prior art would have been obvious.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

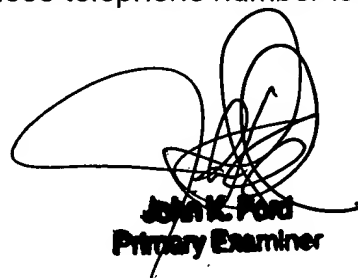
Any inquiry concerning this communication or earlier communications from the examiner should be directed to John K Ford whose telephone number is 703-308-2636. If attempts to reach the examiner by telephone are unsuccessful, the

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examiner's supervisor, Henry Bennett can be reached on 703-308-2580. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7766 for regular communications and 703-308-7766 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0861.

JKF/ts  
May 20, 2003



**John K. Ford**  
**Primary Examiner**